

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

SUTTER REGIONAL MEDICAL FOUNDATION

Employer

and

Case 20-RC-18120

OFFICE AND PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION , LOCAL 29, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Sutter Regional Medical Foundation, the Employer, is a California non-profit corporation engaged in the business of providing support services to outpatient facilities in California.

Office and Professional Employees International Union, Local 29, AFL-CIO, the Petitioner, seeks to represent the following unit of employees:

All full-time and regular part-time LVNs, Med Assts, Registration Reps, PT Aides, Radiology and Ultrasound Techs, Mtn Techs, Lab Assts, Buyers, Switchboard Operators and Clerical Employees employed by the Employer at its facilities located at 3505, 3724 and 3903 Lone Tree Way, Antioch; 1120 2nd Street, Brentwood; 2700 Low Court, 2450 Martin Road, 1234 Empire Street and 1309 Texas Street, Fairfield; 2250 Gladstone Drive, Pittsburg; 670 Main Street, Rio Vista; 770 Mason Street, Vacaville; and 100 Hospital Drive, Vallejo, California; excluding confidential employees, professional employees, managers, guards and supervisors as defined in the Act.

There are approximately 280 employees in the bargaining unit described above. The parties stipulated that the specific facilities listed in that description should be included in the

unit. No issues have been raised by the parties to this proceeding. Accordingly, I am directing an election in the unit described above, which I find to be an appropriate unit.

CONCLUSIONS AND FINDINGS

Based upon the entire record,¹ I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. Based on the Employer's submission of the Questionnaire on Commerce Information, and the evidence in the record, I find that the Employer is an employer as defined in Section 2(2) of the Act and is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The parties stipulated, and I find, that the Union is a labor organization within the meaning of the Act.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time LVNs, Med Assts, Registration Reps, PT Aides, Radiology and Ultrasound Techs, Mtn Techs, Lab Assts, Buyers, Switchboard Operators and Clerical Employees employed by the Employer at its facilities located at 3505, 3724 and 3903 Lone Tree Way, Antioch; 1120 2nd Street, Brentwood; 2700 Low Court, 2450 Martin Road, 1234 Empire Street and 1309 Texas Street, Fairfield; 2250 Gladstone Drive, Pittsburg; 670 Main Street,

¹ I am including in the record, as Board Exhibit 4, a copy of an executed Questionnaire on Commerce Information provided by the Employer after the close of the hearing.

Rio Vista; 770 Mason Street, Vacaville; and 100 Hospital Drive, Vallejo, California; excluding confidential employees, professional employees, managers, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by **OFFICE AND PROFESSIONAL EMPLOYEES INTERNATIONAL UNION, LOCAL 29, AFL-CIO.**

The date, time and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3)

employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office on or before **March 16, 2007**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website, www.nlr.gov,² by mail, or by facsimile transmission at

² To file the list electronically, go to www.nlr.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Regional, Subregional and Resident Offices** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms.

(415)356-5156. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Because the list will be made available to all parties to the election, please furnish a total of **two** copies of the list, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **March 23, 2007**. The request may be filed

At the bottom of this page, the user must check the box next to the statement indicating that the user has read and accepts the E-Filing terms and then click the "Accept" button. The user then completes a form with information such as the case name and number, attaches the document containing the election eligibility list, and clicks the Submit Form button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, www.nlr.gov.

electronically through E-Gov on the Board's web site, www.nlr.gov,³ but may not be filed by facsimile.

DATED at San Francisco, California, this 9th day of March 2007.

/s/ Joseph P. Norelli

Joseph P. Norelli, Regional Director
National Labor Relations Board
Region 20
901 Market Street, Suite 400
San Francisco, CA 94103-1735

³ Electronically filing a request for review is similar to the process described above for electronically filing the eligibility list, except that on the E-Filing page the user should select the option to file documents with the **Board/Office of the Executive Secretary**.